

REMARKS

The Office Action of September 25, 2008, has been carefully reviewed, and in view of the above amendments and the following remarks, reconsideration and allowance of the pending claims are respectfully requested.

In the above Office Action, claims 21, 37, 51, 53, 55, and 57 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The Examiner contends that the specification fails to teach how the ink guiding feed would provide a sign of exhausting the ink feed without allowing outside air flowing in to equalize the negative pressure as the ink is being used. In view of the Examiner's comments, claim 21 has been amended to clarify the recited invention. As set forth therein, and as described more fully on Page 16, lines 1-9, of the originally filed specification, the ink guiding feed is tubular and disposed within the barrel between the ink occlusion body and the pen tip so as to prevent outside air from flowing in when the ink occlusion body is impregnated with ink, and allowing outside air to flow into the barrel as ink in the ink occlusion body is depleted. Thus, the outside air replaces the used ink to equalize the negative pressure in the occlusion body.

In addition, claims 21, 37, 51, 53, 55, 57, 59 and have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,065,215 to *Otsuka* in view of *Takanashi et al.* and *Madaus et al.* Claims 21 and 59 are the only independent claims.

The primary reference upon which the Examiner relies, *Otsuka*, discloses a writing instrument having an ink reservoir 16 including a fibrous block 22. The ink in the reservoir is fed to a nib 24 that is made of a thermoplastic synthetic resin. Col. 2, lines 34-36. The rear end 24b of the nib 24 is inserted into the ink reservoir 16 and

the nib 24 has an inner capillary conduit 28 through which ink is introduced from the ink reservoir 16.

In rejecting the claims over *Otsuka*, the Examiner contends that the capillary conduit 28 corresponds to the ink guiding feed recited in claims 21 and 59. However, the capillary conduit 28 of *Otsuka* has a capillary force for drawing ink from the reservoir, whereas the recited ink guiding feed lacks any capillary material within. Still further, the nib 24 of *Otsuka* is formed of a thermoplastic synthetic resin and no mention is made of its capillary ability, whereas the recited pen tip includes a capillary material. More specifically, as recited in claim 21, "ink flows from the capillary material of said occlusion body by virtue of capillary force and ink flows into the capillary material of said pen tip by virtue of capillary force, said ink guiding feed lacking any capillary material therewithin." Emphasis added. Hence, Applicant respectfully submits that *Otsuka* does not disclose or suggest an ink guiding feed lacking any capillary material therewithin as recited in claim 21, much less an ink guiding feed defined by a hollow tubular body without any capillary material within the hollow tubular body, as recited in claim 59.

Given the above differences in structure, even if the barrel of *Otsuka* were made from a transparent material, as proposed by the Examiner when combining the same with *Takanashi et al.* and *Madaus et al.*, the user would only be observing the nib 24 which is tinted with the ink and there would be no indication of the residual ink quantity. That is, since the capillary conduit 28 is disposed within the nib 24 -- the capillary conduit 28 is never visible. Accordingly, the limitations of claim 21 that the "ink guiding feed has visibility" or the "intermediate part being visible" recited in claim 61 are not met. As described in the specification, paragraph [0069] of the published application, one of the goals of the claimed invention is to allow one to clearly and easily determine from visual observation of the ink guiding feed whether or not

starving at the pen tip is caused by drying at the pen tip, or by substantial exhaustion of the ink due to consumption. The modification proposed by the Examiner would not meet this objective. Accordingly, Applicant submits the claimed invention is not rendered obvious by the cited references.

The remaining dependent claims define further distinguishing features associated with the claimed invention. Applicant makes no admissions regarding the Examiner's assertions relating to the dependant claims. These dependent claims are allowable at least by virtue of their dependence from allowable independent claims 21 or 59. Thus, a detailed discussion of the additional distinguishing features recited in these dependent claims is not set forth at this time.

CONCLUSION

In view of the above amendments and remarks, Applicant/s respectfully submit/s that the claims of the present application are now in condition for allowance, and an early indication of the same is earnestly solicited.

Should any questions arise in connection with this application or should the Examiner believe that a telephone conference would be helpful in resolving any remaining issues pertaining to this application; the Examiner is kindly invited to call the undersigned counsel for Applicant regarding the same.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

Date: March 11, 2009

By: /Wendi L. Weinstein/
Wendi L. Weinstein
Registration No. 34456

P.O. Box 1404
Alexandria, VA 22313-1404
703 836 6620